

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 251 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

BACHUBHAI SHAH

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Appearance:

MR.M.A.BUKHARI,ADDL.PUBLIC PROSECUTOR for Appellant.

MR KH PATEL for Respondent N.1(absent)

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CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 24/07/96

ORAL JUDGEMENT

This appeal involves a question whether the provisions of the Minimum Wages Act,1948 and the Rules framed thereunder are applicable to the factory of the respondent-accused.

The learned Metropolitan Magistrate, Court No.6, Ahmedabad, by his impugned judgment and order dated November 11,1986, acquitted the respondent-accused in

Criminal Case No.2478/86 for breach of the provisions of Rules 26-B and 26(2) and 26(5) of the Minimum Wages Rules, 1950. The State has, therefore, preferred the present appeal against the said order of acquittal.

Chandulal Mohanlal Rajpal, who was the Food Inspector under the Minimum Wages Act, 1948 (for short,"the said Act") visited Manisha Industries of the respondent-accused on September 11,1985 and demanded the wage slip issued by the respondent to the employees of the factory. He also demanded the muster roll in respect of the workmen of the factory. It is alleged that the respondent could not produce the documents as demanded, and consequently the aforesaid Criminal Case came to be lodged against the respondent-accused for breach of the Rules 25-B and 25(2) of the Minimum Wages Rules for having not issued the wage-slips to the employees and not maintaining the attendance register.

The respondent-accused pleaded not guilty to the charges.

The learned Magistrate having recorded the evidence of the complainant-Food Inspector, Chandulal Mohanlal Rajpal, came to the conclusion that there is nothing in the Schedule to the Minimum Wages Act that provisions of the Act and the Rules were applicable to the factory of the respondent. It is not in dispute that the respondent's factory manufactures handles for hammers out of wood. The learned Magistrate held that the manufacturing of such wooden handle would not be within the purview of the engineering industry. The learned Addl. Public Prosecutor, Mr. Bukhari, has not been able to show from the Schedule said Act whether manufacturing of wooden handles for hammers falls within the ambit of the Minimum Wages Rules. In facts of the case, the view taken by the learned Magistrate is correct. By section 5 of Gujarat Act (22 of 1961, several entries came to be added in the Schedule to the principal Act in Part I. However, no such entry relates to the wooden handles as of the present case. Having regard to the facts and circumstances of the case, it cannot be concluded that the learned Magistrate has taken a wrong or erroneous view in respect of the manufacturing item in the factory of the respondent. In any case, nothing is shown that the manufacturing of such wooden handles would be within the purview of the Minimum Wages Act and the Rules framed thereunder.

In the above view of the matter, the appeal fails. The appeal is, therefore, dismissed.

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